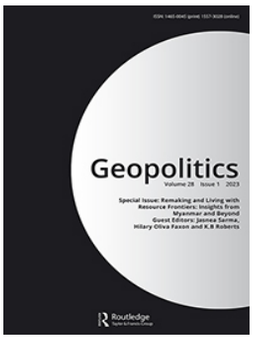

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Westphalian Vs. Indigenous Sovereignty: Challenging Colonial Territorial Governance

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ABSTRACT

The Westphalian concept of sovereignty frames international relations and law. Since the 2007 UN Declaration of the Rights of Indigenous Peoples, the notion of Indigenous sovereignty has also entered international political debate. In this article, we examine the underlying premise of Westphalian and Indigenous sovereignties. A scoping review of the literature reveals that Westphalian sovereignty is a Eurocentric concept implicated in the colonialisation of Indigenous peoples in settler societies. Conversely, Indigenous sovereignty is a broader idea that involves social and cultural aspects, recognises the interdependencies between political actors and relationships to the land, and acknowledges the contextualised nature of sovereignty. We suggest that the two conceptions of sovereignty cannot be reconciled with each other. However, in a shifting political terrain, Indigenous sovereignty poses a critical challenge to the Eurocentric definition of sovereignty.

Introduction

Sovereignty is a contested political concept, which becomes apparent when comparing Westphalian sovereignty and Indigenous sovereignty. Westphalian sovereignty refers to the state's supreme political authority and is an established legal framework in international law. Conversely, Indigenous sovereignty describes a more relational form of self-determination and has only relatively recently attracted the attention of international organisations, Indigenous advocates, and scholars. While Westphalian sovereignty has shaped the international political landscape for centuries, Indigenous sovereignty has in recent times been mobilised in relation to efforts of decolonialization.

In this paper, we explore the way in which the concept of sovereignty is currently being reconfigured, focussing on settler societies where the political debate involves long-established ideas of Westphalian sovereignty as well as the more recently recognised concept of Indigenous sovereignty. Since the emergence of Westphalian sovereignty along with the modern nation state in

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late medieval Europe, setter colonial states have embraced this state-centred, territorial idea of sovereignty. In fact, Westphalian sovereignty has been deeply implicated in the colonialisation of Indigenous peoples (Douglas 2005). We juxtapose Westphalian sovereignty with Indigenous sovereignty, which has garnered increasing attention since the UN Declaration of the Rights of Indigenous Peoples and has been associated with liberation from colonial oppression by Westphalian states. This comparative approach enables us to tease out the fundamental differences associated with the two understandings of sovereignty and offer a refreshed understanding of ongoing settler colonialism.

Both Westphalian sovereignty and Indigenous sovereignty are political constructs. They are 'neither necessary nor essential' (Bartelson 1995, 239). In both cases, sovereignty does not exist *a priori*; it is not naturally given. Rather, sovereignty is claimed, asserted, and enacted by those who have the ability to do so. To Heather Nicol, sovereignty is a 'discourse in which power relationships are conceptualized, theorized and activated according to historical legacies as well as current landscapes of power' (Nicol 2017, 796). In this paper, we examine these landscapes of power that have given rise to contrasting meanings of sovereignty.

Our research pursues the following research questions: In which ways do Westphalian sovereignty and Indigenous sovereignty differ from each other? If Westphalian sovereignty has been a tool of Indigenous dispossession and oppression, should we discard the concept of sovereignty altogether, rather than subvert and appropriate it to advance Indigenous interests and aims? Alternatively, can Westphalian and Indigenous conceptions of sovereignty be reconciled with each other? These questions connect ongoing debates in the field of geopolitics of sovereignty (Eudaily and Smith 2008; Longo 2017) and decolonialization (Abu-Laban 2020; Nicol 2017; Sharma and Wright 2008; Villegas et al. 2019).

To address our questions, we conducted a scoping review of the literature on sovereignty. Using key search terms such as 'sovereignty,' 'Westphalia(n),' 'Indigenous sovereignty,' 'land rights,' 'governance,' and 'colonization,' we identified articles in the academic databases EBSCOhost, ProQuest, and Google Scholar. After skimming these articles for their relevance, we inspected in greater detail those articles that are most relevant to our research questions. In addition, we examined relevant references listed in these articles.

In the next section, we explore the evolution of Westphalian sovereignty and investigate its role in the continuing colonialisation of Indigenous peoples. Then, we turn our attention to the concept of Indigenous sovereignty and explore the role of the UN Declaration on the Rights of Indigenous Peoples in framing Indigenous sovereignty before we assess how the concept is understood beyond this declaration. In the Conclusion we bring the discussion back to our original research questions.

'Westphalian' Sovereignty

A large portion of the literature which has examined sovereignty has done so through a Westphalian lens (Bartelson 1995; Camilleri and Falk 1992; Krasner 2009; Prokhovnik 2013). In this section, we focus on a sample of this literature that helps us understand the role of Westphalian sovereignty in facilitating settler colonialism and its relations to Indigenous sovereignty.

The Evolution of Westphalian Sovereignty

The evolution of the concept of sovereignty illustrates that this concept is an instrument of political control. State-centred, Westphalian sovereignty has served to legitimate and enshrine structures of political authority in response to its specific historical and geo-political contexts (Camilleri and Falk 1992; Prokhovnik 2013). The concept emerged in late mediaeval Europe during the long and complex transition from Feudalism to modern territorial statehood (Foucault 2009; Sassen 2008). The Treaties of Westphalia that ended the Thirty Years War in 1648 marked an important milestone in this transition. Although the complex evolution of state sovereignty cannot be reduced to this particular event (Krasner 2009; MacRae 2005; Teschke 2003), the term 'Westphalian sovereignty' conveys a particular geopolitical arrangement that ties the sovereignty to act independently to territorial statehood. It permits the state – which can be represented by a king or queen, a dictator, or a democratically elected government – to claim control over the affairs within its territorial boundaries without the interference by other states and, in the case of medieval Europe, the Roman Catholic Church. It also entitles the state to manage its external affairs as long as the sovereignty of other states is respected. As a political instrument, Westphalian sovereignty has followed 'Cartesian reason and logic' (Wiessner 2008, 1143) that emphasises territorial control rather than personal bondage.

The period during which sovereignty emerged in Europe was also a time when European powers became involved in colonising other parts of the world. In this context, philosophical discussions of sovereignty were sometimes connected to attempts to justify colonialism. In the 16th Century, the work of Francisco de Victoria legitimated the Spanish conquest of the Americas by proposing an entitlement to enter foreign lands (Cavallar 2002). Other 16th-Century European philosophers, including Jean Bodin, John Locke, Baruch Spinoza, Jean-Jacques Rousseau, Immanuel Kant, and Georg Wilhelm Friedrich Hegel further contributed to the discussion of sovereignty (Prokhovnik 2013). Some of these philosophers had a critical eye on Europe's colonialisation efforts. Christian Wolff opposed the legitimation of foreign conquest and colonisation (Bartelson 1995, 215–21). In his essay *Perpetual Peace*, Immanuel Kant famously argued that the right to visitation

limits the right of the sovereign to exclude foreigners from their land. However, he also explains that the right to visitation 'is not a right to be a (permanent) guest, which the foreigner is entitled to …, but a right to visitation, which all humans possess' (Kant 1795, no page, our translation). By denying the right to permanent settlement, Kant sought to deny conquerors and colonisers the right to rule foreign lands. Samuel Pufendorf goes a step further and suggests that sovereign communities can indeed deny visitors any right to hospitality (Cavallar 2002, 201–8).

Other European Enlightenment philosophers of sovereignty, however, justified conquest and colonialism, including settler colonialism. John Locke – especially in Chapter 5 on Property in *Two Treatises of Government* – degraded Indigenous forms of governance and land uses as illegitimate and suggested that settlers do not need Indigenous consent to appropriate the land for their own use. Moreover, the private use of land by settlers would serve all of humanity (Tully 1993, 137–77). While scholars have questioned Locke's reasoning and disputed the accuracy of his claims (Armitage 2004; Arneil 1994; Bishop 1997), they also unveiled his intention to offer a justification of settler colonialism and land appropriation (Arneil 1994; Tully 1993). According to the doctrine of *terra nullius* Indigenous peoples did not possess sovereignty and thus not the right to exclude the colonisers from their land.

Westphalian sovereignty has generally worked against Indigenous communities. Some scholarship suggests that the European conquerors of North America did not follow the *terra nullius* doctrine but assumed that Indigenous political power was equally concentrated in a central sovereign authority as European kings (Deloria 1996). While the European colonisers may first have treated Indigenous peoples as sovereign, subsequently 'Canada and the United States have written self-serving histories of discovery, conquest, and settlement that wipe out any reference to the original relations between indigenous peoples and Europeans' (Alfred 2005, 34). A shift away from recognition of the oral tradition of law and ancestors (Weir 2013) as well as American court decisions denying Indigenous rights and paternalistic governance structures further caused Indigenous people to lose much of their legal autonomy (Alfred 2005; Deloria 1996).

A different interpretation proposes that territorial sovereignty in Europe may have evolved in interaction with European colonialism in other parts of the world (Branch 2012). In particular, settler-colonial conquest of North America occurred 'through the interrelated practices of racialisation and sovereignty formation' (Nisancioglu 2020, 49). The connection between racialisation and colonialism is well established in the literature. The creation of racial hierarchies were pivotal in expanding colonial empires through processes such as enslavement and settler colonialism (Mills 2020). Race has been identified as tool for exclusion, used not only through colonialism in history, but also presently by settler states that reaffirm white possessiveness and state

sovereignty 'through a process of perpetual Indigenous dispossession, ranging from the refusal of Indigenous sovereignty to overregulated piecemeal concessions' (Moreton-Robinson 2018, 212). Using the example of the 17th Century colonialisation of Virginia, Kerem Nisancioglu illustrates how the Indigenous population was racialised and territorially separated from the colonisers, and how sovereignty served as a strategic political construct to legitimate colonial violence and land appropriation (Nisancioglu 2020). In this case, Westphalian territorial sovereignty was not imported from Europe but constructed in response to colonial crisis in the 'New World' (Branch 2012).

Conversely, Jonas Bens argues that 'Indigenous nations had been legal persons under international law before the arrival of Europeans' (Bens 2020, 84) and that the arrival of the Europeans should not have caused the loss of Indigenous sovereignty. Indigenous peoples were deprived of 'the lands ancestrally occupied and governed by them as entities actually owning the attributes of sovereignty' (Lenzerini 2006, 165). In this context, treaties were an important mechanism through which the settler colonial state appropriated Indigenous lands and oppressed the Indigenous peoples on it. By signing treaties with Indigenous nations, the colonisers indeed acknowledged that Indigenous people held exclusive title (Slattery 1991). Thus, when the British Crown's asserted sovereignty in Canada, it was deemed 'sufficient to erase Aboriginal title to ancestral lands within the legal systems of the Empire' (Thobani 2007, 41).

In the United States, 'treaties were almost without exception procured through corrupt and dishonourable practices sanctioned by the highest levels of the U.S. government' (Akers 2014, 59). The American settler state pressured Indigenous peoples to give away their land and natural resources for much less than their true value, in an attempt to 'dispossess them so that white Americans could take over their lands' (Akers 2014, 51). In turn, Indigenous nations often signed treaties to protect their sovereignty as nations. Heidi Kiiwetinepinesiik Stark explains:

> Anishinaabe leaders often sought recognition and protection of their nationhood, and thus their sovereignty and land tenure, by engaging with the United States and Canada in treaty making that they hoped would guarantee their status as sovereigns and as proprietors. (Kiiwetinepinesiik Stark 2012, 122)

However, the Eurocentric conception of Westphalian sovereignty as control over bounded territory was unfamiliar to Indigenous peoples. Anishinaabe leaders in fact attempted to 'resist the imposition of "fixed" boundaries that tied nationhood to territorial containment' (Kiiwetinepinesiik Stark 2012, 123). Correspondingly, in the 1970s, in the context of the Mackenzie Valley Pipeline Inquiry, the Dene Nation (formally The Indian Brotherhood of the Northwest Territories) legally challenged the Canadian government's

interpretation of Treaty 8 and Treaty 11, claiming that they were 'agreements of friendship rather than land surrenders' (Roburn 2018, 167).

The overarching problem is that Westphalian sovereignty is mutually exclusive: there cannot be two sovereigns sharing the same fixed and bounded territory. Today, the Canadian government continues to see the Canadian constitution as taking precedence over 'any areas of "shared jurisdiction" obligations created by the treaty' (McCrossan 2019, 102). The negotiation of new treaties that coerces Indigenous peoples into accepting 'monetary payouts for their unrecovered land' (Corntassel 2008, 106) effectively forces Indigenous demands to comply with the logic of Westphalian sovereignty.

Ongoing Settler Colonialism

Today, Westphalian sovereignty continues to uphold settler colonialism. In the Westphalian model of sovereignty, Indigenous people are considered participants within the bounds of the nation state. Although the Canadian state may claim to be inclusive of all inhabitants, settlers are the majority on Canadian territory. This situation, paired with liberal democratic rule, has effectively eliminated the sovereignty of many Indigenous minorities who, as a numeric minority, have been 'swallowed into the Canadian body politic' (Spitzer 2019, 2).

In Canada's Northwest Territories, the remaining aspects of Indigenous sovereignty are threatened by a growing settler population and attempts to undermine the existing governance structure. For example, one lawsuit advocated for an increase of assembly seats in Yellowknife, the city with the greatest amount of settlers. Aaron Spitzer considers such actions a 'logic of elimination' arguing that

> Settlers employed such rights [to voting] in a specific, strategic, two-pronged way, condemning as 'illiberal' those voting, mobility and expression laws that flow from Indigenous sovereignty and then swapping in ostensibly race-neutral laws that in effect would enthrone settlers (Spitzer 2019, 2).

In this way, the liberal democratic principles that underly Westphalian sovereignty and colonialism threaten Indigenous self-determination.

As a result of the continuing legacy of colonialism and practises of oppression, Indigenous peoples around the world 'share the worst measures on all indicators of health, education, and social and political participation' (Mitchell and Enns 2014, 2). However, when the settler state steps in to provide aid to Indigenous populations in order to remedy the consequences of its actions of oppression, it reproduces the unequal political relationship between the sovereign setter state and colonised Indigenous peoples (Coulthard 2007). In turn, by accepting this aid, Indigenous people are coerced into complicity and

reconciling themselves to the state as the superior authority (Gordon-walker 2018). In the United States, Indigenous nations were thus in a 'double bind:'

> American Indian tribal nations (like other polities) require economic resources to exercise sovereignty, and their revenues often derive from their governmental rights; however, once they exercise economic power, the legitimacy of tribal sovereignty and citizenship is challenged in law, public culture, and everyday interactions within settler society. (Cattelino 2010, 235)

Essentially, Indigenous participation and complicity in the settler colonial society were used as leverage to discount their claims to be a sovereign nation. Similarly, in Canada, the ability of the settler state to uphold its superiority over Indigenous people has depended on its ability to entice Indigenous people to identify 'either implicitly or explicitly with the profoundly asymmetrical and non-reciprocal forms of recognition either imposed on or granted to them by the colonial-state and society' (Coulthard 2007, 439). In Australia, too, governments from 1973 to 2007 consistently implemented '"self-determination„ policies for Indigenous people that funded Indigenous organisations "to deliver welfare„' (Rademaker and Rowse 2020, 8).

In these contexts, advocacy for self-determination is often misinterpreted as a desire for recognition by the state and society. This misinterpretation evokes an understanding of Indigenous struggle as a Hegelian master/slave dialectic, wherein the oppressed is seeking recognition from the oppressor (Coulthard 2007; Coulthard 20142014; Nakata 2020; Thobani 2007). However, Indigenous people should not be assumed to be in pursuit of such recognition (Nakata 2020). Instead, Indigenous advocates are often campaigning for self-governance and land-rights (Gordon-walker 2018). The focus of colonial settler states on addressing rights violations and providing recognition ignores efforts for Indigenous self-determination and land rights (Corntassel 2008; Gordon-walker 2018; McCrossan 2019).

Furthermore, Westphalian sovereignty prevents other countries or international bodies from interfering in the internal workings of the state. As such, Westphalian sovereignty allows settler states to ignore international human rights standards and deny economic, social and political rights to Indigenous peoples who live within state boundaries. The Canadian government, for example, used the existence of treaties as grounds not to adopt the *UN Declaration on the Rights of Indigenous Peoples*, insisting on its 'own Constitutional and legal understanding of how indigenous rights should be enshrined and implemented' (Nicol 2017, 800). In addition to denying important social, economic and political rights, the settler colonial state can also violate Indigenous land and sovereignty rights (Gordon-walker 2018; Hiller 2017).

Indigenous Sovereignty

As part of colonialisation, settler states such as Australia, Canada, New Zealand, and the United States displaced Indigenous and imposed their own legal and knowledge systems (Ernst 2018; Thorner et al. 2018). These colonial systems have continuously undermined Indigenous 'assertions of sovereignty' (Thorner et al. 2018, 269). Indigenous perspectives of sovereignty, however, have been framed in much broader terms than Westphalian territorial state sovereignty (Deloria 1996). In addition, the notion of Indigenous sovereignty continues to evolve in response to ongoing political struggles and transforming configurations of political authority. In this section, we examine the reconfiguration of sovereignty in light of the ongoing efforts towards Indigenous autonomy.

UN Declaration on the Rights of Indigenous Peoples

The 2007 UN Declaration of the Rights of Indigenous People marks a milestone in the articulation of Indigenous sovereignty. Indigenous advocates had long campaigned and lobbied for the declaration in an effort to advance Indigenous self-determination and human rights (Kuokkanen 2012; Pitty and Smith 2011). In 1982, the UN Special Rapporteur of the Subcommission on the *Prevention of Discrimination and Protection of Minorities*, José R. Martinez Cobo, drew attention to the systematic discrimination against Indigenous peoples (Mitchell and Enns 2014). In the years of negotiation after the first draft of the declaration was introduced in 1994, settler colonial states, which sought to uphold Westphalian sovereignty over their territory, contested Article 3 which affirms the rights of Indigenous peoples to self-determination (Pitty and Smith 2011). According to Sana Nakata, in regions governed by colonial settler states, 'self-determination has necessarily operated as a framework for Indigenous governance within a context of contested but near invincible state sovereignty' (Nakata 2020, 338). The declaration was finally adopted on September 13, 2007 with 143 'for' votes, 11 abstentions, and only four votes against the adoption (Pitty and Smith 2011). Australia, Canada, New Zealand, and the United States – four settler-colonial states with vested interest in supressing their Indigenous population's rights to self-determination – opposed the Declaration.

The core passage in the Declaration defining Indigenous self-determination is Article 3, which states:

> Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. (United Nations 2007)

The next article, Article 4, however, immediately constraints this right:

> Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their *internal* and *local* affairs, as well as ways and means for financing their autonomous functions. (United Nations 2007, our italics)

It becomes clear that the Declaration conceives Indigenous self-determination as fundamentally different from Westphalian sovereignty. Westphalian sovereignty grants nation states control not only of their internal but also of their *external* affairs. The latter is not offered to Indigenous peoples. Rather, the Declaration only provides certain rights to Indigenous communities that limit the Westphalian sovereignty of setter colonial states over their internal affairs related to Indigenous governance. The Declaration does not establish Westphalian sovereignty for Indigenous peoples.

When the declaration was negotiated within the UN, some of the members were concerned that Indigenous nations could use the Declaration to instigate secession (Wiessner 2008). To address this concern, a final article (Article 46) was added specifying that 'Nothing in this Declaration may be interpreted as . . . any activity or to perform an act contrary to the Charter of the United Nations' thereby upholding the UN's principle of territorial integrity of its member states. In this way, an uneven and hierarchical relationship between the sovereign Westphalian state and the self-determining Indigenous nation has been enshrined into the Declaration. Indigenous self-determination is construed as subordinated to Westphalian state sovereignty.

An overarching constraint, of course, is that the UN is an organisation consisting of Westphalian members states. The logic of Westphalian sovereignty is deeply engrained into its core structure. Alternative conceptions of sovereignty would therefore destabilise the UN's very foundation. This conundrum frames the uneasy relationship between Westphalian and Indigenous conceptions of sovereignty.

Beyond the Declaration

Rooted in a Eurocentric modern tradition associated with colonial conquest, Taiaiake Alfred (2005) wrote more than a decade ago that the concept of sovereignty may be 'inappropriate as a political objective for indigenous people'. From a North American – i.e., Turtle Island – perspective, Alfred observes that:

> few people have questioned how a European term and idea – sovereignty is certainly not Sioux, Slaish, or Iroquoian in origin – came to be so embedded and important to cultures that had their own systems of government since the time before the term *sovereignty* was invented in Europe. (Alfred 2005, 39 italics in original)

Alfred remarked that adopting the concept of sovereignty for the purpose of Indigenous self-governance faces the challenge of transcending colonial

frameworks of governance that have their origin in Eurocentric ideas of ruling by supreme authority, political hierarchy, and the legal enforcement of this authority and hierarchy.

Tanganekald and Meintangk (Australia) scholar Irene Watson concurred:

> The experience lived before the time of Cook was more than the idea of sovereignty; it was freedom from the 'muldarbi' or demon spirit. I use muldarbi here to describe the colonizer, and all forms of exploitation and power that are dispossessing and destructive of indigenous peoples. (Watson 2002, paragraph 18, single quotes in original)

She explained that 'Aboriginal' law is not formalised in legal text but lived through customs, believes, values, and everyday practices. This law is incompatible with the notions of sovereignty and land title promoted by the Australian state. Imposing the Westphalian concept of sovereignty onto Indigenous peoples facilitates 'the continuing colonial relationship between colonizing states and indigenous peoples' (Watson 2002, paragraph 44). This idea was echoed by Sharma and Wright (2008) who asserted that decolonisation must reject exploitative and colonialist relations and systems of authority 'organized through the national state, such as sovereignty' (132).

An important question is how the concept of Indigenous sovereignty differs from Westphalian sovereignty, which has been an instrument of settler colonialism. To address this question, we uncovered various perspectives of Indigenous sovereignty occurring in the literature:

First, Vine Deloria, Jr. explained in a US context that Indigenous perspectives reframe sovereignty in a way that focusses on social and cultural rather than legal dimensions:

> the idea of Indian sovereignty is not simply a legal concept. Numerous references to sovereignty cite the nation of a distinct people, separate from others, as the chief characteristic of Indian sovereignty indicating that so long as the cultural identity of Indians remains intact no specific political act undertaken by the United States can permanently extinguish Indian peoples as sovereign entities (Deloria 1996, 111).

Indigenous sovereignty is thus not purely a legal source of political authority, but rather a social and cultural way of defining community. The Inuit who live in the Arctic across the international boundaries of the United States (Alaska), Canada, Greenland, and Russia have fought for control over the arctic waters, which are sought after as shipping routes and sources of untapped natural resources. For the Inuit hunting seal is a critical aspect of their cultural self-understanding, thus they feel responsible for the proper stewardship of the water. Such stewardship is an expression of 'sovereign power across the multiple borders that constitute the Arctic' (Fakhri 2018, 233).

The Inuit's struggle over sovereignty in the Arctic, however, also illustrates the ongoing colonialism facilitated by elevating Westphalian over Indigenous conceptions of sovereignty. On the one hand, the Inuit have had some success with land claims in Canada, some of which include provisions about political

autonomy (Campbell 2013). Additionally, along with Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the United States, there are six Indigenous peoples' organisations (Inuit Circumpolar Conference, Aleut International Association, Arctic Athabaskan Council, Gwich'in Council International, Russian Association of Indigenous Peoples of the North, and Saami Council) considered 'permanent participants' in the Arctic Council, which discusses issues of sovereignty and policy in the Arctic. On the other hand, after Russia's attempt to claim ownership of the Arctic in 2007, Canada, Denmark, Norway, Russia and the United States held a summit, without inviting Indigenous communities (Fakhri 2018; Shadian 2018). The summit and its final declaration asserted the participating states' territorial sovereignties over the Arctic and 'enveloped indigenous livelihood into each state's domestic sphere' (Fakhri 2018, 236). Once again, the legal claims of Westphalian states over their territories sidelined Indigenous perspectives of sovereignty.

From an Australian vantage point, Aileen Morton-Robinson agrees that Indigenous perspectives of sovereignty should not be conceived in legal terms. She critiques the literature on Indigenous sovereignty for relying on a rights framework and thus for failing to 'reorient our conception of power outside of a law, right, and sovereignty paradigm to think about Indigenous sovereignty and power in different ways' (Moreton-Robinson 2015, 127). Based on her analysis of Indigenous politics and sovereignty discourses in Australia, she concludes that Indigenous sovereignty does not legitimate settler-colonialist conceptions of sovereignty. Rather, by framing sovereignty in ontological terms of presence and belonging, Indigenous sovereignty contests 'the very premise of white sovereignty' (Moreton-Robinson 2015, 135).

Second, Indigenous sovereignty recognises the relationships and interdependencies, rather than granting one actor (i.e., the state) the right to make decisions independently without interference by others. This perspective includes the interdependence between political actors. Examining the framing of Indigenous sovereignty by the Inuit in the Arctic as they negotiated with the Canadian state, Nicol finds that for Inuit organisations sovereignty 'is the right to be heard and to be included in deliberations, national and international, concerning Arctic territories and resources' (Nicol 2017, 811). Sovereignty, in this case, does not mean to be able to act and govern without interference from someone else. Rather, the concept is subverted to recognise the interdependence of political actors and the right to genuine engagement in good faith.

This perspective also involves the relationships between people and the land. Indigenous sovereignty is considered an expression or extension of the relationship that Indigenous people have to their land (Hiller and Carlson 2018). For the Yawuru in Australia, self-determination over land 'cannot be disconnected from the broader rights and responsibilities of looking after

country and fulfilling one's cultural obligations as Yawuru' (Yap and Yu 2018, 99). In Canada, Indigenous 'Knowledge Keepers speak of sovereignty as living the powerful, complex, practiced, and sustaining relationships with specific lands that sustain them physically, relationally, culturally, spiritually, and as distinct peoples' (Hiller and Carlson 2018, 50). Indigenous views of land and the connectedness of all beings entail that sovereignty means to be able to protect the land and the relationships to it. This idea of sovereignty is incompatible with the Westphalian conception of sovereignty and its Cartesian logic that relates to territorial control for the purpose of exploiting the land as a resource.

Third, Indigenous sovereignty is not universal or uniform but a deeply contextualised concept. It is 'available for uptake, activation, and resignification according to differing agendas/objectives/goals' (Thorner et al. 2018). Some Indigenous scholars and commentators consider coexistence with settlers a key aspect of Indigenous sovereignty (Mitchell 2020; Thorner et al. 2018). Others suggest that 'self-determination' is about more than the relationship between Indigenous communities and the settler colonial state and economy, and 'making choices that would maximise autonomy, driven by a shared memory or imagined ideal of the autonomy they enjoyed before colonisation began' (Rademaker and Rowse 2020, 12). Indigenous sovereignty can also be a personal experience. Maree Clarke, who self identifies as Indigenous, claims: 'To me sovereignty is just what I do, and how I do it' (Thorner et al. 2018, 274). This diversity of contextualised views of Indigenous sovereignty contradicts the definition of Westphalian sovereignty as a uniform conception of state authority.

Fourth, the point may precisely be to subvert the concept of sovereignty and liberate it from the Westphalian frame and its deep links with settler colonialism. In the context of Indigenous sovereignty in Bolivia, Postero and Fabricant (2019) argue that sovereignty has to be reframed so as not to focus only on the inherent violence of settler colonial states, but 'also on the consensuses that political actors must forge to enact sovereignties' (99). Indigenous sovereignty can challenge Westphalian sovereignty by demonstrating the historical violence that has taken place on the land and propose 'an "unthinkable" notion of indigenous peoples who claim membership in their own sovereign nations' (Postero and Fabricant 2019, 99).

Conclusion

Our first research questions asked in which way Westphalian and Indigenous sovereignties differ from each other. The literature illustrates that Westphalian sovereignty is a Eurocentric concept centred around a particular form of statehood that emerged in modern Europe. As European colonial powers exported this form of statehood to other parts of the world, Westphalian

sovereignty became a universal model for international relations and organisations such as the UN. Conversely, Indigenous sovereignty is a broader idea. Various perspectives see Indigenous sovereignty as a social and cultural rather than purely legal concept, recognise interdependencies between political actors and relationships to the land, acknowledge the contextualised rather than universal nature of sovereignty, and appreciate the value of subverting colonial concepts for the purpose of decolonialization.

Another question we asked in the paper is if the concept of sovereignty should be discarded because it has been deeply implicated in setter colonialism (Branch 2012; Nisancioglu 2020) or appropriated and subvert to advance Indigenous interests and aims. On the one hand, it has seemed unintuitive to mobilise the concept of sovereignty in service of Indigenous liberation struggles (Alfred 2005). The concept appears to be deeply Eurocentric, absolves Westphalian states of moral responsibilities, and has served to appropriate land and exert colonial control and oppression. In practical use, it seems contradictory to frame decolonialization and Indigenous liberation in language that symbolises colonial conquest and Indigenous oppression.

Furthermore, the concept has perpetuated a myth of equality between 'sovereign' entities when political relations between these entities are clearly uneven and asymmetrical (Mathieu 2020). Applying the term sovereignty to Indigenous calls for self-determination is thus deceiving since the term implies equality while – as the UN Declaration on the Rights of Indigenous Peoples clearly outlines – the Westphalian sovereign state remains superior to self-governing Indigenous Peoples.

On the other hand, to assume that sovereignty is inherently tied to Westphalian statehood and colonial oppression is itself Eurocentric. Such a view

> presents Europe as a unique world-making agent and a prime mover of history, where the innovation of modern sovereignty is first generated within its pristine boundaries and then 'diffused' elsewhere. This claim rests on a geohistorical abstraction whereby European states are viewed as self-propelling actors that are hermetically sealed from external – non-European – relations, histories, relations or influences. (Nisancioglu 2020, 43)

In this way, sovereignty is as much a European as a New World concept; not one group of people can claim sole authority over defining it. It can very well serve the aim of decolonialization and Indigenous self-determination.

Westphalian sovereignty follows a Eurocentric understanding of the relationship between humans and land as territory. This construct faced resistance by Indigenous peoples who did not have the same conception of property and boundaries on land (Kiiwetinepinesiik Stark 2012). To assert that a Westphalian model of sovereignty would be a tool capable of eliminating the oppression of Indigenous people or to assume that resistance must take

place within the confines of this model is to take a Eurocentric approach. Such an approach continues to ignore the fundamental and nuanced conceptions of Indigenous sovereignties and governance structures, perpetuating the assumption that Indigenous ways of knowing and governing are inferior to those that originated in Europe.

Finally, we asked if Westphalian and Indigenous conceptions of sovereignty can be reconciled with each other. We do not think so; the two concepts are fundamentally different from each other. The UN Declaration on the Rights of Indigenous Peoples represents a dissatisfying attempt to bring Westphalian and Indigenous sovereignties together. Granted, the Declaration as well as the state judicial systems of most settler colonial states no longer follow the *terra nullius* doctrine and recognise pre-existing Indigenous rights. However, by holding on to the idea of Westphalian sovereignty they preserves the overarching superiority of the Westphalian state, while granting only limited autonomy to Indigenous people over their local and internal affairs.

As a political construct, the concept of sovereignty continues to evolve in response to ongoing political struggles and material realities. Westphalian sovereignty remains deeply embedded in international relations and law. In this way, Westphalian sovereignty enforces the ongoing colonialisation of populations within states as well as globally (Georgi 2019; Hickey 2020; Van Houtum 2010). Indeed, further research could offer more details on the connection between Westphalian sovereignty and settler colonialism. Indigenous sovereignty, however, poses a critical challenge to the Eurocentric definition of this concept on a path towards decolonialization.

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We do not have a conflict of interest

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